

REMARKS

I. Formalities

Claims 32-25, 37, 38, 65-68, 70, and 71 remain in the subject patent application. Claims 32, 35, 65, and 68 are amended and claims 36 and 69 are canceled herein. Claims 1-31, 39-64, and 72-78 were canceled in an earlier paper. Support for the amendments to claims 32, 35, 65, and 68 can be found at least in paragraph 42 and in paragraph 44, lines 3-4. Accordingly, Applicant respectfully submits that no new matter is added herein.

II. Response to the 35 U.S.C. §101 Rejections

Claims 35 and 68 were rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. The Office Action stated that the limitations of claims 36 and 69 or some form of equivalent are required in order to have the tangible results of the redirecting.

In the spirit of cooperation, and in an attempt to advance the prosecution of the patent application, Applicant has amended claims 35 and 68 such that they now include, respectively, the limitations of claims 36 and 69. It is therefore respectfully submitted that claims 35 and 68 are directed to statutory subject matter, and withdrawal of the 35 U.S.C. §101 rejections of claims 35 and 68 is respectfully requested.

III. Response to the 35 U.S.C. §103 Rejections

Claims 32-38 and 65-71 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 6,253,230 to Couland et al. (hereinafter “Couland”). These rejections are respectfully traversed in view of the amendments and remarks made below.

In order for the Examiner to establish a *prima facie* case of obviousness, three base criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or references must

teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. M.P.E.P. §2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

A. Remarks Directed to Claim 32

Claim 32 has been amended herein such that it now requires that the client lock be placed in the local dispatch table by said one dispatcher when said one dispatcher determines that there exists no session entry corresponding to the packet and determines that the client lock does not already exist. Couland does not teach or suggest the stated limitation of amended claim 32. Instead, Couland teaches a Network Dispatcher Forwarding Engine (ND-FE) (which the Office Action apparently sees as analogous to the "one dispatcher" of amended claim 32) that must follow an outside protocol in determining the destination to which the client request is to be forwarded. See, for example, column 8, lines 55-57 of Couland, where it is explained that the forwarding decision "is preferably made using a configurable function and data provided by the ND-CE 1011 (a control engine) on a previous flow." Lines 59-63 of column 8 further explain that if such configurable function and data do not allow the ND-FE to select the server locally then the ND-FE interrogates the ND-CE to obtain a server selection and a corresponding switched address.

It may be seen from the foregoing that Couland teaches a controlled dispatcher (the ND-FE) that defers to protocols outside itself rather than a dispatcher that places a client lock in a local dispatch table when the dispatcher determines that there exists no session entry corresponding to the packet and determines that the client lock does not already exist, as required by amended claim 32.

For at least the foregoing reasons, Applicant respectfully submits that the 35 U.S.C. §103 rejection of amended claim 32 should be withdrawn. Such withdrawal of the rejection is respectfully requested.

B. Remarks Directed to Claims 33 and 34

Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). Therefore, claims 33 and 34, which depend from amended claim 32, are also not taught or suggested by Couland for at least the same reasons as listed earlier for amended claim 32. Accordingly, Applicant respectfully requests that the rejections of claims 33 and 34 be withdrawn.

C. Remarks Directed to Claim 35

Claim 35 has been amended herein such that it now requires a step of searching for a session entry corresponding to the first packet and, if the session entry is not found, a step of creating a client lock on packets received from the client and placing the client lock in a local dispatch table corresponding to one dispatcher of a plurality of dispatchers (“said one dispatcher”). Couland does not teach or suggest the stated limitation of amended claim 35. Instead, as explained above, Couland teaches a Network Dispatcher Forwarding Engine (ND-FE) (which the Office Action apparently sees as analogous to the “one dispatcher” of amended claim 35) that must follow an outside protocol in determining the destination to which the client request is to be forwarded. See, for example, column 8, lines 55-57 of Couland, where it is explained that the forwarding decision “is preferably made using a configurable function and data provided by the ND-CE 1011 (a control engine) on a previous flow.” Lines 59-63 of column 8 further explain that if such configurable function and data do not allow the ND-FE to select the server locally then the ND-FE interrogates the ND-CE to obtain a server selection and a corresponding switched address.

It may be seen from the foregoing that Couland teaches a controlled dispatcher (the ND-FE) that defers to protocols outside itself rather than a dispatcher that places a client lock in a local dispatch table when the dispatcher determines that there exists no session entry corresponding to the packet, as required by amended claim 35.

For at least the foregoing reasons, Applicant respectfully submits that the 35 U.S.C. §103 rejection of amended claim 35 should be withdrawn. Such withdrawal of the rejection is respectfully requested.

D. Remarks Directed to Claims 36-38

Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). Therefore, claims 37 and 38, which depend from amended claim 35, are also not taught or suggested by Couland for at least the same reasons as listed earlier for amended claim 35. Accordingly, Applicant respectfully requests that the rejections of claims 33 and 34 be withdrawn. As explained above, claim 36 has been canceled herein.

E. Remarks Directed to Claim 65

Claim 65 has been amended herein such that it now requires that the client lock be placed in the local dispatch table by said one dispatcher when said one dispatcher determines that there exists no session entry corresponding to the packet and determines that the client lock does not already exist. Couland does not teach or suggest the stated limitation of amended claim 65. Instead, Couland teaches a Network Dispatcher Forwarding Engine (ND-FE) (which the Office Action apparently sees as analogous to the “one dispatcher” of amended claim 65) that must follow an outside protocol in determining the destination to which the client request is to be forwarded. See, for example, column 8, lines 55-57 of Couland, where it is explained that the forwarding decision “is preferably made using a configurable function and data provided by the ND-CE 1011 (a control engine) on a previous flow.” Lines 59-63 of column 8 further explain that if such configurable function and data do not allow the ND-FE to select the server locally then the ND-FE interrogates the ND-CE to obtain a server selection and a corresponding switched address.

It may be seen from the foregoing that Couland teaches a controlled dispatcher (the ND-FE) that defers to protocols outside itself rather than a dispatcher that places a client lock in a local dispatch table when the dispatcher determines that there exists no

session entry corresponding to the packet and determines that the client lock does not already exist, as required by amended claim 65.

For at least the foregoing reasons, Applicant respectfully submits that the 35 U.S.C. §103 rejection of amended claim 65 should be withdrawn. Such withdrawal of the rejection is respectfully requested.

F. Remarks Directed to Claims 66 and 67

Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). Therefore, claims 66 and 67, which depend from amended claim 65, are also not taught or suggested by Couland for at least the same reasons as listed earlier for amended claim 65. Accordingly, Applicant respectfully requests that the rejections of claims 66 and 67 be withdrawn.

G. Remarks Directed to Claim 68

Claim 68 has been amended herein such that it now requires a machine accessible medium providing instructions that, when executed by a machine, cause the machine to search for a session entry corresponding to the first packet and, if the session entry is not found, create a client lock on packets received from the client and placing the client lock in a local dispatch table corresponding to one dispatcher of a plurality of dispatchers (“said one dispatcher”). Couland does not teach or suggest the stated limitation of amended claim 68. Instead, as explained above, Couland teaches a Network Dispatcher Forwarding Engine (ND-FE) (which the Office Action apparently sees as analogous to the “one dispatcher” of amended claim 68) that must follow an outside protocol in determining the destination to which the client request is to be forwarded. See, for example, column 8, lines 55-57 of Couland, where it is explained that the forwarding decision “is preferably made using a configurable function and data provided by the ND-CE 1011 (a control engine) on a previous flow.” Lines 59-63 of column 8 further explain that if such configurable function and data do not allow the ND-FE to select the server locally then the ND-FE interrogates the ND-CE to obtain a server selection and a corresponding switched address.

It may be seen from the foregoing that Couland teaches a controlled dispatcher (the ND-FE) that defers to protocols outside itself rather than a dispatcher that places a client lock in a local dispatch table when the dispatcher determines that there exists no session entry corresponding to the packet, as required by amended claim 68.

For at least the foregoing reasons, Applicant respectfully submits that the 35 U.S.C. §103 rejection of amended claim 68 should be withdrawn. Such withdrawal of the rejection is respectfully requested.

H. Remarks Directed to Claims 69-71

Dependent claims must be construed to include all of the limitations of the claims from which they depend, as required by 37 C.F.R. 1.75(c) and M.P.E.P. 608.01(n). Therefore, claims 70 and 71, which depend from amended claim 68, are also not taught or suggested by Couland for at least the same reasons as listed earlier for amended claim 68. Accordingly, Applicant respectfully requests that the rejections of claims 70 and 71 be withdrawn. As explained above, claim 69 has been canceled herein.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. In light of the amendments and remarks set forth above, Applicant respectfully requests reconsideration and allowance of all of the pending claims.

No fees are believed to be due in connection with this Response. However, the Commissioner for Patents is hereby authorized to charge any fees due, or credit any overpayment, to Account No. 50-0221.

If there are matters that can be discussed by telephone to further the prosecution of this application, Applicant invites the Examiner to call the undersigned attorney at his convenience.

Respectfully submitted,

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